

## **VIEU Policy**

### **Eliminating Workplace Bullying**

#### **1.0 Preamble**

- 1.1 The Victorian Independent Education Union endorses the provisions of the Guidance Note on the Prevention of Bullying and Violence at work.
- 1.2 Workplace bullying places at risk, the health, safety and welfare of all persons in the workplace. It is a behaviour, which very clearly is an occupational health and safety hazard. According to WorkSafe Victoria, the problem is of such magnitude that one in four persons will be exposed to some form of workplace bullying at some stage in their working lives.
- 1.3 Whilst workplace bullying presents considerable cost to employers through time lost from the workplace and increased WorkCover premiums, however, the greatest cost is borne by those experiencing the bullying and their families. The adverse health effects of associated stress or other psychosocial injury will often present a considerable long term burden for the effected member and their family.

#### **2.0 General Principles**

- 2.1 VIEU endorses the recommendation of the guidance note that all employers implement a preventative approach to bullying.
- 2.2 VIEU acknowledges bullying can occur in any workplace and that the implementation of prevention measures can assist reducing the likelihood of bullying occurring.
- 2.3 Workplace bullying is defined in the guidance note, as repeated unreasonable behaviour directed toward an employee, or group of employees, that creates a risk to health and safety. In this definition,
  - behaviour means: behaviour that a reasonable person, having regard to all the circumstances, would expect to victimise, humiliate, undermine or threaten.
  - behaviour : includes actions of individuals or a group, and may involve using a system of work as a means of victimising, humiliating, undermining or threatening.
  - risk to health and safety: includes risk to the mental or physical health of the employee.
- 2.4 Workplace bullying is a wide range of behaviours that can have an influence on the health and safety of all staff employed in non- government education.

- 2.5 All workplaces must be free of bullying. Employers must do all in their power to make certain employees are protected from bullying by external education authorities, employers, fellow employees, parents or students.
- 2.6 Employers have a general duty of care under S21 of the Occupational Health and Safety Act 1985 to ensure, so far as is practicable, that bullying does not occur in their workplace.
- 2.7 All employees, whilst at work must take reasonable care for their own health and safety and the health and safety of others. All employees have a duty to cooperate with their employer in respect to measures undertaken or adopted by the employer, to prevent the occurrence of bullying in the workplace.
- 2.8 Workplace bullying may also come within the scope of certain state and federal legislation. The obligations of such legislation are additional to the obligations of the Occupational Health and Safety Act 1985. The relevant legislation includes:
- Equal Opportunity Act 1995 (Victoria)
  - Human Rights and Equal Opportunity Act 1986 (Commonwealth)
  - Racial Discrimination Act 1975 (Commonwealth)
  - Sex Discrimination Act 1984 (Commonwealth)
  - Disability Discrimination Act 1992 (Commonwealth)
  - Crimes Act 1958 (Victoria)
  - Workplace Relations Act 1996 (Commonwealth)

### **3.0 Prevention of Bullying from inside the Workplace**

- 3.1 The following steps of implementing a preventative approach to workplace bullying are recommended.

#### **Step 1: Consult and Discuss**

Consultation will assist in identifying whether bullying is a problem in the workplace. Employers also have an obligation under the Occupational Health and Safety Act 1985 to consult with Occupational Health and Safety Representatives in their workplaces on matters relating to health and safety. Consultation should occur in relation to the development of an awareness raising strategy, a no bullying policy, and incident reporting and investigation procedures.

#### **Step 2: Create Awareness**

Making everyone in the workplace aware of the issue is the first step in ensuring the workplace is free of bullying. Everyone in the workplace should be aware of what bullying is, the indicators of bullying, the possible effects of bullying and that such behaviour is not tolerated in the workplace. The creation of awareness of workplace bullying should apply to new and existing staff, managers, principals, headmasters and administrators, contractors and suppliers of services. Information about policy and procedures should be provided at induction seminars for new and existing staff.

### **Step 3: Develop a Policy**

Certified Agreements must clearly state the commitment of employers to ensure their workplaces are free of bullying. All workplaces must develop a no bullying policy, which provides a clear statement that bullying will not be tolerated and outlines the workplace's expectations of behaviour. The policy should be specific to the workplace, ensure the commitment of the leadership and provide for consultation with employees in its development. No bullying policies must contain the following key features:

- must contain a statement of managerial commitment against bullying
- must be established through consultation between the school leadership and the VIEU sub-branch
- clearly states bullying is a serious disciplinary offence and will not be tolerated
- lists examples of unacceptable behaviour in the workplace
- recognises bullying is also an issue for the workplace at the organisational level
- has a broad enough scope to apply to all visitors and staff
- a commitment to assess the risk of bullying occurring in the workplace and lists the steps to be taken to prevent bullying
- has reference to formal and informal reporting, investigation grievance and disciplinary procedures with timetables for action
- a guarantee of confidentiality for complainants
- a guarantee persons reporting bullying will be protected from victimisation
- a timeline and method for training, implementation, monitoring and review of the policy

### **Step 4: Provide Information, Instruction and Training**

Under the Occupational Health and Safety Act 1985, employers have a responsibility to ensure all employees are provided with the information, instruction, training and supervision they require to perform their work safely. Providing training is one way to assist employees to carry out their duties safely and to minimise the risk of bullying from fellow employees or superiors.

### **Step 5: Look for Warning Signs**

Bullying may occur in any workplace. Employers and employees should be vigilant in identifying warning signs. Warning signs could include:

- high levels of staff turnover
- inappropriate use by the employer of industrial agreements and laws
- work system factors; such as poorly defined roles, excessive workloads, lack of policy or inadequate consultation
- new staff members resigning suddenly without explanation
- high levels of absenteeism
- negative feedback from staff who leave
- an increase in grievances or complaints about work organisation
- deterioration of relationships between staff or administration
- withdrawn or isolated employees
- formal complaints about bullying
- incident reports

A survey or checklist is one method an employer may use to identify warning signs of bullying.

## **Step 6: Encourage Reporting**

Employers should encourage all members of the workplace to report incidents of bullying and identify warning signs. Reporting incidents enables employees to attain a more accurate knowledge of the nature and extent of bullying and to take appropriate action in respect to those issues being reported. Reporting allows employers to assess the effectiveness of measures already adopted and to provide immediate assistance to those employees who have been involved in episodes of bullying. If reporting systems are already in place they should be assessed regularly for their effectiveness. Consideration should be given to those factors, which may encourage employees not to report. The reporting system developed at the workplace level should include:

- the immediate reporting of the incident to VIEU and the VIEU sub-branch rep.
- consultation with employees or their health and safety representative
- a reporting system that complements the 'no bullying' policy
- reported incidents are treated seriously and investigated properly
- those who report are not subject to victimisation
- procedures for investigation are in place and are followed
- complaints can be resolved formally or informally
- confidentiality is maintained

### **4.0 Post Incident Process**

When an incident of bullying has occurred or has been reported employers should ensure an investigation is conducted, measures for complaint resolution are considered and support is given to the complainant.

4.1 When an incident of workplace bullying is investigated the following principles should guide the investigation:

- non-victimisation of the person who reports the incident
- support should be provided to both the perpetrator and the complainant
- persons conducting the investigation into bullying allegations should be trained in conducting investigations
- neutrality of the party conducting the investigation
- communication to all parties of the process, how long it will take to conclude and what can be expected from the process.
- confidentiality will be maintained
- the keeping of formal documentation and records of interviews conducted
- the principles of natural justice will be followed in all formal investigations

4.2 The prompt investigation of complaints or allegations of bullying is essential to swift resolution. Following investigation, if complaints of bullying are substantiated, they may be resolved formally or informally.

### **5.0 Procedures for Complaining about incidents of bullying**

5.1 Dealing with complaints and allegations of bullying requires confidentiality, sensitivity and speed. Lengthy, extended complaints handling processes may expose the targeted person to more bullying.

- 5.2 Employers and employees are entitled to know the details of complaints against them, including the name of the person raising the complaint, the specific details of the complaint, and be given the opportunity to respond prior to any action being taken in response to the complaint.
- 5.3 It is unprofessional and a denial of natural justice for the name of the complainant and the details of the complaint to be withheld from the staff member concerned. Such withholding of information does not afford the staff member an appropriate and adequate opportunity to respond to and address the complaint.
- 5.4 All persons who are alleged to have committed a bullying offence must be treated as innocent until proven otherwise
- 5.5 All members of VIEU have equal rights of representation. In instances where the targeted person alleges bullying against another VIEU member, a separate VIEU officer will be assigned to assist and advise each member. VIEU upholds the right of all members to be afforded the principles of natural justice and representation during any investigation of alleged bullying.
- 5.6 If accusations of bullying are substantiated, then disciplinary action must be taken
- 5.7 Procedures for resolving allegations of bullying may be formal or informal

## **6.0 Informal Procedure**

- 6.1 The targeted person may approach another member of staff to seek assistance in resolving the matter. Suitable persons would be VIEU sub-branch rep or the Occupational Health and Safety Representative. A decision can then be taken by the targeted person regarding what action they wish to take in respect to the bullying behaviour.
- 6.2 An informal procedure must make clear to the alleged bully
  - that their bullying behaviour is in breach of the workplace no bullying policy
  - that their behaviour must comply with the standards set out in the workplace no bullying policy
  - how their bullying behaviour impacts upon other staff members in the workplace
  - they must desist from their bullying behaviour immediately
  - the situation will continue to be monitored
  - what the consequences will be if their bullying behaviour does not cease
  - that the discussion between the parties is confidential and informal at this stage

## **7.0 Formal Procedure**

- 7.1 The targeted person may wish to make an immediate written complaint or may wish to do so because the informal procedure has failed to resolve the matter successfully.

- 7.2 Formal complaints must be made direct to the VIEU and the Principal. In instances where the alleged bully is the Principal or Headmaster, the complaint must be notified to VIEU.
- 7.3 The formal procedure must clearly establish
- the manner in which allegations of bullying are to be investigated
  - the timeline for conducting such an investigation
  - the nature of any disciplinary action to be invoked
  - the rights of all parties to be represented by VIEU, VCSA or AISV
  - the procedures for appealing the findings of any investigation
  - the requirement for confidentiality
  - the right to pursue grievance procedures
  - that records are kept in Incident reports; and
  - that records are kept in accordance with the Catholic Education Melbourne policy of Record Keeping (CEOM Policy2.3)

## 8.0 Grievances

- 8.1 In the event any member of the workplace believes the processes of handling complaints of bullying have been unfair and/or inappropriate, they shall have the right to pursue grievance procedures contained within the relevant award of certified agreement.

## 9.0 Prevention of Bullying from Outside the Workplace

Bullying from sources outside the workplace focuses upon those persons who have a secondary relationship to the workplace. The perpetrators of bullying in this instance are not within the direct control of the employer. Employers have a responsibility under the Occupational Health and Safety Act 1985 to adopt a risk management approach to prevent bullying from sources outside the workplace. The following steps of implementation of a risk management approach are required:

### **Step 1: Identify Hazards**

This is the process of identifying the circumstances that are likely to expose employees to the risk of bullying from persons outside the workplace. All situations where there is a potential for bullying should be identified. A variety of sources should be used to identify situations where bullying may occur. Some of the following examples may be used.

- checklists to identify issues associated with security, access to the workplace by non-employees, physical layout of the workplace, training received by staff for dealing with difficult or aggressive students and parents
- inspect parts areas of the workplace where bullying may be a problem
- observe how work is conducted and establish a system which encourages staff to report incidents of bullying
- consultation with staff and health and safety representatives and others who have experience with workplace bullying to identify potentially hazardous situations.
- confidential surveys of employees about situations that have caused anxiety or discomfort but not resulted in bullying
- obtain information from other workplaces of similar size and layout about similar issues that have resulted in bullying.

- examine accident and incident reports to identify past incidents of bullying

## **Step 2: Assess Risks**

The purpose of risk assessment is to determine which risks need to be controlled and to assist employers in making decisions about the most appropriate measures to control risk. Risk assessment requires employers to assess the likelihood and consequences of bullying occurring from sources outside the workplace. This is the process of identifying how serious the risk is from the hazards identified at step 1. If a situation is high risk it should be dealt with immediately.

### **In assessing the likelihood and consequences of the risk of bullying from sources outside the workplace, the following points must be considered**

- what is the likelihood an incident of bullying will occur
- what is the likely severity of an outcome of such an incident
- how many staff would be effected and how often are they exposed to risk of injury from bullying?
- is information available regarding incidents of bullying from sources outside the workplace
- what control measures are currently in place and are they adequate to protect the health and safety of employees.
- can the risk of bullying be eliminated completely? If not, what steps can be taken to reduce as much as practicable, the risk bullying will occur?

## **Step 3: Risk Control**

Employers have a duty; to eliminate any risk to health and safety caused by bullying. If the risk cannot be eliminated, it must be controlled so far as is practicable. Employers must implement control measures that are appropriate to the circumstances of the individual workplace. In many instances, a combination of measures will be required to control or eliminate the risk. Employers must adopt the hierarchy of control approach to risk control. This is a process of focusing upon elimination the risk as the preferred method of control before moving to less effective administrative processes and provision of personal protective devices. A suggested hierarchy of control is set out below.

### **1. Eliminate or reduce the opportunities for bullying. Examples of elimination are set out below.**

- remove the opportunity for the bully and the employee to interact
- withdraw or limit the level of service provided to aggressive or bullying persons
- ensure workplace policies and procedures for bullying are effectively managed
- ensure staff are trained in the necessary skills to manage difficult people
- where practicable, ensure staff are not working alone or in isolated locations
- increase the availability of employees to other staff
- ensure the working environment does not promote bullying due to matters such as overcrowding, excessive noise, poor temperature control
- make public the measures adopted in the workplace to increase to detection of bullying

**2. Eliminate or reduce the opportunities for interaction between the bully and the employee, examples are:**

- change the method of contact between staff and persons who bully through the use of methods such as telephone contact and written communication
- design school reception areas to ensure the height and width of service counters maximise the physical space between employees and visitors
- install security doors and screens where necessary
- implement the use of security devices such as personal alarms, duress alarms in interview rooms or deadlocks
- implement a secure area to which staff can retreat if necessary

**3. Increase the defence of the employee, examples are**

- ensure staff who work alone are able to get assistance swiftly when required
- ensure occupants of interview rooms can be observed from the outside
- install mirrors behind counters in reception and other areas exposed to the public
- provide effective means of communication and duress alarms to staff working in isolated areas of the workplace or at times outside of the normal operating hours.
- Ensure workplace procedures are effective in assisting all employees to protect their own health and safety.